

THE FLINN REPORT

ILLINOIS GENERAL ASSEMBLY
JOINT COMMITTEE ON ADMINISTRATIVE RULES

Elaine Spencer, Editor

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The Flinn Report is a weekly summary of regulatory actions of State agencies published in the *Illinois Register* and action taken by the Illinois General Assembly's Joint Committee on Administrative Rules (JCAR). The Flinn Report honors founding JCAR member Representative Monroe Flinn, and is designed to inform and involve the public in changes taking place in agency administration.

Proposed Rulemakings

▪ CANNABIS CULTIVATION

The DEPARTMENT OF AGRICULTURE proposed amendments to the Part titled Cannabis Regulation and Tax Act (8 IAC 1300; 47 Ill Reg 14077) establishing a process through which craft cannabis growers may apply to the Department to increase canopy space in increments of 3,000 square feet up to a maximum of 14,000 square feet. Grow operations that already have 6,000 or more square feet must have or install variable refrigerant flow HVAC units or other more energy efficient equipment. Criteria for DOA to approve an expansion of canopy space include: market need for increased cannabis production as indicated by factors such as inventory tracking data, adult use monthly sales figures, consistent sale of at least 50% of the grower's packaged product, and product

availability; ability of the grower to meet the commitments in its original license and cultivate additional cannabis at the square footage requested; the grower's history of compliance with DOA cannabis laws and rules; and any other information

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DOA may require. The rulemaking also provides that DOA may, with at least 120 days advance notice to the grower, decrease a grower's canopy space by 3,000 feet if the grower has consistently sold less than 50% of its packaged product over the previous two fiscal quarters. DOA cannot reduce a grower's canopy space below 5,000 square feet or more than once every 12 months. Cannabis cultivation centers are affected by this rulemaking.

Questions/requests for copies/comments through 11/20/23: Sam McGee, DOA, State Fairgrounds, P.O. Box 19281, Springfield IL 62794-9281, 217/558-3741, Samuel.McGee@illinois.gov

SNAP ELIGIBILITY

The DEPARTMENT OF HUMAN SERVICES proposed an amendment to Supplemental Nutrition Assistance Program (SNAP) (89 IAC 121; 47 Ill Reg 14085) that removes two temporary exemptions from SNAP eligibility criteria for students ages 18 to 49. The exemptions applied to students who were eligible for, but had not secured, placement in state or federal work-study programs or whose Expected Family Contribution to their educational costs as determined in the

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ADOPTED RULES: Rules adopted by agencies this week. **EMERGENCY RULES:** Temporary rules adopted for no more than 150 days.

PROPOSED RULEMAKINGS: Rules proposed by agencies this week, commencing a First Notice public comment period of at least 45 days.

PEREMPTORY RULES: Rules adopted without prior public notice or JCAR review as authorized by 5 ILCS 100/5-50.

▪ - Designates rules of special interest to small businesses, small municipalities and/or non-profit organizations. Agencies must consider comments from these groups and attempt to minimize regulatory burdens on them.

QUESTIONS/COMMENTS: Submit mail, e-mail or phone calls to the agency personnel listed below each summary.

RULE TEXT: First Notice proposed text, emergency rule and preemptory rule text is available at the Secretary of State website (<https://www.ilsos.gov/departments/index/register/home.html>) or at the Illinois General Assembly website (<http://www.ilga.gov>) under "Illinois Register". Second Notice text for proposed rulemakings (original version with any changes made by the agency during First Notice included) is available at the JCAR website.

Proposed Rulemakings

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student aid application process was zero. DHS states that these were temporary exemptions granted by the USDA Food and Nutrition Service, which were terminated with the end of the federal COVID-19 public health emergency.

HOME SERVICES

DHS also proposed an amendment to the Part titled Eligibility (89 IAC 682; 47 Ill Reg 14099) that allows verificat-

ion of Medicaid eligibility, for purposes of determining a prospective customer's eligibility for the Home Services Program, to be performed through HFS' Integrated Eligibility System or another system established by HFS. Prospective HSP customers may have to provide verification if HSP staff cannot verify Medicaid status by other means.

Questions/requests for copies/comments on the 2 DHS rulemakings through 11/20/23: Tracie Drew, DHS, 100 S. Grand Ave. East, 3rd Fl., Springfield IL 62762, 217/785-9772, DHS.AdministrativeRules@illinois.gov

DFPR RULE WITHDRAWAL

The DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION has withdrawn a proposed new Part titled Rules for the Licensed Certified Professional Midwife Practice Act (68 IAC 1345; 46 Ill Reg 20475) that was published in the 12/30/22 *Illinois Register*. The proposed rule would have established licensing procedures for certified professional midwives under the Act. DFPR withdrew this rulemaking in response to a JCAR Objection citing various outstanding issues, including licensing fees for certified professional midwife applicants. DFPR will reevaluate this program and issue new rules at a later date.

Adopted Rules

ASSET EXEMPTIONS

The DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES adopted an amendment to Medical Assistance Programs (89 IAC 120; 47 Ill Reg 6237) effective 9/21/23, replacing an emergency amendment that was effective 5/12/23. The rulemaking increases the amount of assets exempted from determinations of Medicaid eligibility for long-term care to \$17,500 for individuals, married couples and any dependents (formerly, \$2,000 for individuals, \$3,000 for an individual and one dependent, plus \$50 for each additional dependent). This change aligns the medical assistance asset exemption with exemptions used to determine eligibility for the Department on Aging's Community Care Program and the Department of Human Services' Home Services Program.

Questions/requests for copies: Steffanie Garrett, HFS, 201 S. Grand Ave., East, 3rd Floor, Springfield IL 62763-0002, HFS.Rules@illinois.gov

▪ ALCOHOL MARKETING

The ILLINOIS LIQUOR CONTROL COMMISSION adopted amendments to the Part titled The Illinois Liquor Control Commission (11 IAC 100; 47 Ill Reg 7827) effective 9/21/23, replacing emergency rules that were effective 5/25/23. This rulemaking concerns co-branded alcoholic beverages that bear the same or similar names, logos or can/bottle/package designs as non-alcoholic beverages (e.g., mixed drinks packaged in soft drink branded cans or bottles). These rules prohibit retail establishments with more than 2,500 square feet of sales floor from displaying co-branded alcoholic beverages immediately adjacent to soft drinks, fruit juices, bottled water,

or candy, or to snack foods that include youth-oriented images (changed since 1st Notice from "photos") or cartoons in their advertising or packaging. Retail establishments with 2,500 or fewer square feet of floor space that cannot separate their co-branded alcoholic beverages from similar non-alcoholic products must place visible 8 ½ x 11-inch signage (provided by LCC) on displays of co-branded alcoholic beverages that clearly label these products as alcoholic beverages available only to customers age 21 and older. These restrictions do not apply to shelves, aisles or display areas in which primarily alcoholic beverages are sold and customers under 21 are prohibited from entering unless accompanied by a parent or guardian. Grocery stores, convenience stores and other retail establishments that sell alcoholic beverages are affected.

Questions/requests for copies: Dana O'Leary, ILCC, 50 W. Washington, Suite 209, Daley Center, Chicago IL 60602, 312/814-2604, Dana.Oleary2@illinois.gov

▪ SICKLE CELL DISEASE

The DEPARTMENT OF PUBLIC HEALTH adopted a new Part titled Sickle Cell Disease Prevention, Care, and Treatment Program (77 IAC 663; 47 Ill Reg 7310) effective 9/20/23, implementing PA 102-4, which created the Sickle Cell Prevention, Care and Treatment Program Act and Sickle Cell Chronic Disease Fund. The rulemaking establishes a competitive grant process to support prevention, care, and treatment of sickle cell disease (a genetic disorder, most prevalent among persons of African, Mediterranean or Middle Eastern descent, that causes red blood cells to take on a sickle or crescent shape and impairs their ability to carry oxygen) as

well as educational programs concerning the disease and the genetic trait that causes it. Entities eligible to apply for grants include established community-based organizations with at least 2 years' experience serving sickle cell patients and their families. Grant recipients must comply with the requirements of the Grant Accountability and Transparency Act. Maximum grant amounts will be determined by DPH based on available funding. Grant funds may be used to establish or expand direct care services (including preventive, home-based or self-administered care) for sickle cell patients; establish new infusion centers; increase access to pain management and mental health services; provide genetic and/or psychological counseling for persons testing positive for sickle cell disease or trait; and provide education regarding the disease and trait to medical students and residents; immigrants, schools and universities; community health workers; and the general public. The PA and this rulemaking also require DPH to conduct an ongoing study to determine the prevalence, impact, and needs of individuals with sickle cell disease and sickle cell trait in Illinois and submit a report to the General Assembly every 2 years beginning 7/1/24. Since 1st Notice, DPH has clarified which organizations are eligible to apply for grants and added links to the application forms. Those affected by this rulemaking include healthcare providers and non-profit organizations serving sickle cell disease patients and their families.

Questions/requests for copies: Tracey Trigillo, DPH, 524 S. Second St., 6th Floor, Springfield IL 62701, 217/782-1159, dph.rules@illinois.gov

Second Notices

The following rulemakings were moved to Second Notice this week by the agencies listed below, commencing the JCAR review period. These rulemakings will be considered at the October 17, 2023, meeting in Chicago. Other items not published in the *Illinois Register* or The Flinn Report may also be considered. Further comments concerning these rulemakings should be addressed to JCAR at jcar@ilga.gov.

IL EMERGENCY MANAGEMENT AGENCY

Compensation of Local Governments for Emergency Planning and Participation in Nuclear Emergency Response Exercises (32 IAC 501; 47 Ill Reg 10673) proposed 7/21/23

DEPT OF FINANCIAL AND PROFESSIONAL REGULATION

Credit Union Community Reinvestment (38 IAC 185; 46 Ill Reg 19726) proposed 12/16/22

Bank Community Reinvestment (38 IAC 345; 46 Ill Reg 19794) proposed 12/16/22

Rules Governing the Request for Reconsideration of Examination Findings (38 IAC 385; 46 Ill Reg 19856) proposed 12/16/22

Mortgage Community Reinvestment (38 IAC 1055; 46 Ill Reg 19862) proposed 12/16/22

IL HOUSING DEVELOPMENT AUTHORITY

Federal Emergency Rental Assistance Program (47 IAC 378; 47 Ill Reg 12003) proposed 8/11/23

DEPT OF HEALTHCARE AND FAMILY SERVICES

Medical Assistance Programs (89 IAC 120; 47 Ill Reg 11529) proposed 8/4/23

Covering All Kids Health Insurance Program (Repealer) (89 IAC 123; 47 Ill Reg 11545) proposed 8/4/23

Children's Health Insurance Program (Repealer) (89 IAC 125; 47 Ill Reg 11562) proposed 8/4/23

Hospital Services (89 IAC 148; 47 Ill Reg 2556) proposed 2/24/23

SECRETARY OF STATE

Issuance of Licenses (92 IAC 1030; 47 Ill Reg 12012) proposed 8/11/23

STATE EMPLOYEES' RETIREMENT SYSTEM

The Administration and Operation of the State Employees' Retirement System of Illinois (80 IAC 1540; 47 Ill Reg 12023) proposed 8/11/23

OFFICE OF THE STATE TREASURER

Investment Programs (Repealer) (74 IAC 720; 47 Ill Reg 11421) proposed 7/28/23

Next JCAR Meeting: Tues. Oct. 17, 11 a.m.

Rm. C-600, Bilandic Bldg., 160 N. La Salle, Chicago

Meeting will be live streamed on the JCAR website

Joint Committee on Administrative Rules

Senator Bill Cunningham, Co-Chair
Senator Cristina Castro
Senator Donald DeWitte
Senator Dale Fowler
Senator Kimberly Lightford
Senator Sue Rezin

Representative Ryan Spain, Co-Chair
Representative Eva-Dina Delgado
Representative Jackie Haas
Representative Steven Reick
Representative Curtis Tarver, II
Representative Dave Vella

Kim Schultz, Executive Director ■ Kevin Kulavic, Deputy Director
700 Stratton Office Building, Springfield IL 62706
217-785-2254 ■ jcar@ilga.gov